

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS M. HOGAN and RU HOGAN,

No. 2:22-cv-00039 WBS AC

Plaintiffs,

ORDER

CENTRAL LOAN ADMINISTRATION,  
et al,

Defendants.

Pending before the court is plaintiffs' motion to have deemed admissions withdrawn. ECF No. 46. The motion was taken under submission. This discovery matter was referred to the undersigned pursuant to E.D. Cal. R. ("Local Rule") 302(c)(1).

This motion is procedurally defective. Local Rule 251(b) establishes requirements for any party bringing a motion pursuant to Federal Rules of Civil Procedure 26 through 37, including the requirement that the parties meet and confer and file a joint discovery statement. A motion to withdraw admissions is governed by Federal Rule of Civil Procedure 36(b), and thus comes within the scope of Local Rule 251(b). The exception to the meet and confer and joint statement requirements, Local Rule 251(e), does not apply here because the moving party is not "aggrieved" by the other party's "total failure to respond to a discovery request or order." Rule 251(e).

1 No joint discovery statement has been filed. Additionally, it is clear that the parties have  
2 not sufficiently met and conferred regarding the instant dispute. Because plaintiffs, the movants,  
3 did not satisfy Local Rule 251(b)'s meet and confer requirement or the joint discovery statement  
4 requirement, the motion is denied without prejudice. See e.g., U.S. v. Molen, 2012 WL 5940383,  
5 at \*1 (E.D.Cal. Nov. 27, 2012) (where a party fails to comply with Local Rule 251, discovery  
6 motions are denied without prejudice to re-filing).

7 For the reasons stated above, IT IS HEREBY ORDERED that plaintiffs' motion at ECF  
8 No. 46 is DENIED without prejudice to re-filing following appropriate meet and confer efforts  
9 and upon a properly filed joint statement.

10 IT IS SO ORDERED.

11 || DATE: January 31, 2023

Allison Claire  
ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE